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SUBJECT: UNCERTAIN FUTURE FOR HUMAN RIGHTS REFORM BILL

¶1. (U) Summary. In late April, the Mexican Chamber of Deputies adopted a bill modifying five articles of the Mexican Constitution as part of an effort to bring Mexican law into compliance with Mexico's international treaty obligations relating to human rights principles. If ultimately adopted by the Senate, these reforms will impose new requirements on the Mexican government in the area of human rights promotion and protection. The modifications passed by the Chamber address issues that include the rights of asylum seekers and other foreigners living in Mexico, limits on the powers of the President, and the responsibility of state institutions in promoting human rights respect. The human rights community is displeased with the limited scope of the reform, and it remains to be seen whether the Senate will move them forward this fall when a new legislature is seated. If the bill becomes law next fall, however, Mexico will take a modest step forward in guaranteeing internationally protected human rights. End Summary.
Just How Far Do International Treaties Apply?

¶2. (SBU) One of the most important reforms advanced by the Chamber bill (and the one most widely commented on by the human rights community) affirms that "all persons will enjoy the human rights recognized by the Constitution as well as those in international human rights treaties ratified by the Mexican State." Congresswoman Omeheira Lopez, the outgoing President of the Chamber of Deputy's Commission on Human Rights, told Poloff that this change means that the Mexican government will no longer will draw a distinction between human rights protections delineated in the Mexican Constitution and those set forth in international treaties Mexico has ratified. The reform obliges authorities to take an active role in protecting human rights in as inclusive a manner as possible, investigating and sanctioning violations. Human rights groups, however, point out that the bill leaves important loopholes, particularly by positing the primacy of Mexico's existing constitution over international treaties. They argue that this provision calls into question Mexico's unqualified obligation to bring its laws into compliance with its international treaty obligations. At the end of the day, the NGO community stills considers this reform a step forward in that it recognizes most international treaties and gives individuals the chance to pursue human rights protection in domestic courts.

Expanding the Rights of Asylum Seekers, Limiting Power to Expel Foreigners

¶3. (SBU) The reform also expands the rights of asylum seekers by specifying that all persons have the right to seek asylum and that "the law" will regulate procedures and exceptions. In this instance, the Chamber of Deputies specifies that the law governing the application of this reform will be based on the American Convention on Human Rights, which requires that States not "expel or return foreigners to another country where their right to life or personal integrity is at risk." Citing cases from the past in which Mexico violated non-refoulement principles by deporting individuals who were imprisoned upon returning

home, human rights groups, however, remain skeptical that the government will fully implement this commitment.

¶4. (U) Another constitutional modification imposes limits on the president's power to expel foreigners, requiring compliance with the International Covenant on Civil and Political Rights (which stipulates that any person identified by a state for expulsion must go before an administrative procedure to determine the place and time of expulsion). The new language also states that foreigners "enjoy the rights recognized in the Constitution."

¶5. (U) Other reforms charge the president and state institutions more explicitly with promoting human rights. In a change to improve mandate of the National Human Rights Commission (CNDH), institutions which reject that organization's recommendations must publicly justify their decisions. In addition, the process for selecting the leadership of that organization, and other publicly funded human rights organizations, is to be done with greater public participation (as yet un-specified). Human rights groups support these changes, but are waiting to see whether they survive the legislative process and how they are actually implemented.

Where Does The Bill Go From Here?

¶6. (SBU) The bill's passage in the Chamber was fraught with the political horse-trading typical of security and human rights related legislation in Mexico. According to commission president Lopez, PRD legislators in her commission provided the major impetus for the reform, securing PAN support by promising to support the PAN's security reform package in exchange. There were more sweeping measures under consideration, but consensus was achieved on the ones outlined above, and PRD agreed ultimately to accept half a loaf. Lopez claims that PRI legislators demonstrated their party's "typical disinterest" in human rights by staying out of most discussions. Legislators credit Lopez for aggressively and effectively moving the bill out of committee onto the floor of the lower chamber, where it passed unanimously in the session's closing days.

¶7. (SBU) The legislation can not necessarily count on Senate support when that body presumably takes it up in September. Its strongest proponent, Chamber commission chairwoman Lopez, leaves congress at the end of August. While remaining optimistic, Lopez voiced concern the reform could become a bargaining chip as parties compete to secure the new presidency of the National Human Rights Commission for one of their own. For their part, human rights groups are concerned the Senate could further water down what they believe is a reform bill that already suffers from important omissions.

¶8. (SBU) Comment. If passed and published in the official gazette, Mexico's government will be able to claim a victory in strengthening human rights and respect for international law. That claim will surely have its detractors, however. Human rights groups will no doubt maintain that the government's efforts continue to fall far short of its obligations as reflected in international agreements. Passage in the Senate is not a sure thing, but if the bill survives to become law (even one more modest than originally envisioned by its proponents) it will be a good first step.

End Comment.

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